

Owner-builder and owner-designer exemption from licensed building practitioner

Information sheet

Under the Building Act 2004, most work involving residential construction (including the design) is classified as "restricted building work" and must be carried out by a licensed building practitioner (LBP). You may, however, apply to Council for consideration as an "owner-builder". The owner-builder exemption applies to design and/or building work. There are rules that govern this:

1. You must be the owner of the residence.
2. You must reside in the residence (i.e. a landlord cannot apply for owner-builder status for properties owned by themselves, but which they do not live in).
3. You may not employ any person to design, build, or help with the construction (you may employ electricians, drain layers, and plumbers as these trades are under acts other than the Building Act 2004. Note, however, that these are restricted trades and the associated work may only be carried out by qualified, registered and licensed tradespersons. You may employ an LBP licensed designer or architect, who will provide documentation to meet their obligations under the Act and then apply as the owner-builder for the construction.
4. You can only be an owner-builder on one project within a three year time span.

If you are applying to be the owner-designer, the plans must be of reasonable quality:

1. They must be drawn to scale with a ruler.
2. They must be ink on plain paper (not graph paper).
3. As a minimum there should be:
 - a. a site plan showing all existing buildings + projected work;
 - b. an existing floor plan showing the entire building;
 - c. a proposed floor plan showing the changes to be made;
 - d. a foundation plan;
 - e. a roof framing plan;
 - f. a cross section showing all the major components and their descriptions;
 - g. bracing calculations; and
 - h. written specifications (for small works this could be included as part of (f) above).

Tararua District Council reserves the right to not accept any plans that do not meet the standards outlined above and/or do not show adequate means of achieving code compliance.

Tararua District Council building officers can offer limited advice but, under the Building Act 2004, cannot carry out design functions on your behalf. The burden of proof of code compliance is on the applicant.

There is a general expectation that you are competent to do this work, which must be of a similar standard to that produced by professionals. The work must comply with the New Zealand Building Code for it to be accepted.

Excerpts from the Building Act 2004

45 How to apply for building consent

- (1) An application for a building consent must—
 - (a) be in the prescribed form.

If you are applying for consideration as an owner-builder (this may also include owner-designer):

- (5) The application must be accompanied by a statutory declaration, in the prescribed form, as to owner-builder status—
 - (a) if the building work includes restricted building work to be carried out by the owner-builder; or
 - (b) if any accompanying plans or specifications contain design work that is restricted building work and that has been carried out by the owner-builder.

86 Offence to engage another person to carry out or supervise restricted building work if person is not licensed building practitioner

- (1) A person commits an offence if that person—
 - (a) engages another person to carry out restricted building work; and
 - (b) knows that the other person is not—
 - (i) a licensed building practitioner; or
 - (ii) a licensed building practitioner who is licensed to carry out the restricted building work.
- (1A) A person commits an offence if that person—
 - (a) engages another person to supervise the carrying out of restricted building work; and
 - (b) knows that the other person is not—
 - (i) a licensed building practitioner; or
 - (ii) a licensed building practitioner who is licensed to carry out or supervise the carrying out of the restricted building work.
- (1B) This section does not apply in the case of any unpaid friend or family member of an owner-builder who is engaged to assist the owner-builder in carrying out restricted building work.

87A Notices to building consent authority when owner-builder carries out restricted building work

- (1) This section applies when, under the owner-builder exemption, an owner-builder carries out restricted building work under a building consent.
- (2) If the building consent application was not accompanied by a statutory declaration as to owner-builder status, the owner must give the building consent authority a notice that the owner-builder is to carry out restricted building work.
- (3) The owner must give the building consent authority a notice—
 - (a) if there is a change in the owner-builder carrying out the restricted building work; or
 - (b) when the owner-builder ceases to carry out the restricted building work.
- (4) A notice under this section must—
 - (a) be in the prescribed form; and
 - (b) if it is a notice required under subsection (2) or (3)(a), be accompanied by a statutory declaration as to owner-builder status; and
 - (c) be given—
 - (i) before the building work begins, if it is a notice required by subsection (2);
 - (ii) as soon as practicable, if it is a notice required by subsection (3).

Note that there are two forms: "Notice of Owner-Builder" and "Statutory Declaration as to Owner-Builder". Both of these forms are available from any Tararua District Council service centre or from the Council website.